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PART IV

Section I-C

ACTS, ORDERS AND NOTIFICATIONS UNDER CENTRAL ACTS AND ORDINANCES

GOVERNMENT OF MYSORE.

Legislative Department.

NOTIFICATION.

No. L.D. 681—Legis. 5-52-39, dated Bangalore, 29th June 1952.

...d that Notification No. S.R.O. 709, dated the 17th April ...e Ministry of Home Affairs—The Criminal Courts and Court ...justment of Jurisdiction) Rules, 1952, published in the ...India, Part II, Section 3, dated the 26th April 1952, be ...d in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.
MINISTRY OF HOME AFFAIRS.

NOTIFICATION.

New Delhi, the 17th April 1952.

S.R.O. 709.—In exercise of the powers conferred by sub-section (1) of section ...the Code of Criminal Procedure, 1898 (V of 1898), and in supersession of all ...notifications on the subject, the Central Government hereby makes the

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following rules for the trial of persons subject to military, naval or [illegible] (b) fro
a court to which the said Code applies, or by a court-martial, [illegible] (c) m

1. (1) These Rules may be called the Criminal Courts [illegible]
(Adjustment of Jurisdiction) Rules, 1952.

(2) They extend to the whole of India except the State [illegible] Whe
Kashmir and Manipur.

2. In these Rules unless the context otherwise requires—

(i) "Commanding Officer"

(a) in relation to a person subject to military law means [illegible]
manding the unit or detachment to which such pe[illegible]
attached;

(b) in relation to a person subject to naval law means th[illegible]
Officer of the ship to which such person for the time
and

(c) in relation to a person subject to Air Force law mean[illegible]
the time being in command of the unit or detachment
person belongs or is attached.

(ii) "competent military authority" means the Officer Comman[illegible]
army corps, division, area, corps or independent brigade
which the accused person is serving and [except in cases
section 69 of the Army Act, 1950 (XLVI of 1950)] wh[illegible]
resulted, the Officer Commanding the brigade or sub-area
which the accused person is serving;

(iii) "competent naval authority" means the Commander-in-Chief
or Rear Admiral Commanding, Indian Naval Squadron, o[illegible]
in-Charge, Bombay, or Commodore-in-Charge, 'Cochi[illegible]
Officers-in-Charge, or Senior Naval Officer-present; and

(iv) "competent Air Force authority" means the officer co[illegible]
command, wing or station in which the accused person is
when death has resulted [except in cases falling under sec[illegible]
Air Force Act, 1950 (XLV of 1950)] the Commander-in
Force".

3. Where a person subject to military, naval or Air Force law is b[illegible]
a Magistrate and charged with an offence for which he is liable to be
court-martial, such Magistrate shall not proceed to try such person or to
for his case to be referred to a Bench, or to inquire with a view to his c
for trial by the Court of Sessions or the High Court for any offence tri
Court, unless

(a) he is of opinion, for reasons to be recorded, that he should
without being moved thereto by competent military, n
Force authority, or

(b) he is moved thereto by such authority.

4. Before proceeding under clause (a) of rule 3 the Magistrate shall g
notice to the Commanding Officer of the accused and until the expiry of
seven days from the date of the service of such notice he shall not—

(a) convict or acquit the accused under sections, 243, 245, 247 or
Code of Criminal Procedure, 1898 (V of 1898), or hear
defence under section 244 of the said Code; or

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(b) frame in writing a charge against the accused under section 254 of the said Code; or

(c) make an order committing the accused for trial by the High Court or the Court of Sessions under section 213 of the said Code.

5. Where within the period of seven days mentioned in rule 4, or at any time thereafter before the Magistrate has done any act or issued any order referred to in that rule, the Commanding Officer of the accused or competent military, naval or Air Force authority, as the case may be gives notice to the Magistrate that in the opinion of such authority, the accused should be tried by a court-martial, the Magistrate shall stay proceedings and if the accused is in his power or under his control, shall deliver him, with the statement prescribed in sub-section (1) of section 549 of the said Code to the authority specified in the said sub-section.

6. Where a Magistrate has been moved by competent military, naval or Air Force authority, as the case may be, under clause (b) of rule 3, and the Commanding Officer of the accused or competent military, naval or Air Force authority, as the case may be, subsequently gives notice to such Magistrate that, in the opinion of such authority, the accused should be tried by a court-martial, such Magistrate, if he has not before receiving such notice done any act or issued any order referred to in rule 4, shall stay proceedings and if the accused is in his power or under his control, shall in the like manner deliver him, with the statement prescribed in sub-section (1) of section 549 of the said Code to the authority specified in the said sub-section.

7. Where an accused person, having been delivered by the Magistrate under rule 5 or 6, is not tried by a court-martial for the offence of which he is accused, or other effectual proceedings are not taken, or ordered to be taken, against him, the Magistrate shall report the circumstance to the State Government which may, in consultation with the Central Government, take appropriate steps to ensure that the accused person is dealt with in accordance with law.

8. Notwithstanding anything in the foregoing rules, where it comes to the notice of a Magistrate that a person subject to military naval or Air Force law has committed an offence, proceedings in respect of which ought to be instituted before him and that the presence of such person cannot be procured unless through military, naval or Air Force authorities, the Magistrate may by a written notice require the Commanding Officer of such person either to deliver such person to a Magistrate to be named in the said notice for being proceeded against according to law, or to stay the proceedings against such person before the court-martial, if since instituted, and to make a reference to the Central Government for determination as to the Court before which proceedings should be instituted.

9. Where a person subject to military, naval or Air Force law has committed an offence which, in the opinion of competent military, naval or Air Force authority, as the case may be, ought to be tried by a Magistrate in accordance with the civil law in force or where the Central Government has, on a reference mentioned in rule 8, decided that proceedings against such person should be instituted before a Magistrate, the Commanding Officer of such person shall after giving a written notice to the Magistrate concerned, deliver such person under proper escort to that Magistrate.

[No. 118/50-Judl.]

E. C. GAYNOR, Dy. Secy.

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